

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DANIEL TEKLEMARIAM HAGOS,

Plaintiff,

v.

LIZA PARISKY et al.,

Defendants.

CASE NO. 2:23-cv-00616-TL-BAT

ORDER ADOPTING REPORT  
AND RECOMMENDATION

The matter comes before the Court on the Report and Recommendation (“R & R”) of the Honorable Brian A. Tsuchida, United States Magistrate Judge. Dkt. No. 6. The R & R reflects a pre-service screening of Plaintiff’s complaint. 28 U.S.C. § 1915A(a) (mandating early screening and dismissal of a prisoner complaint that “is frivolous, malicious, or fails to state a claim upon which relief may be granted”). Having reviewed the R & R, Plaintiff’s Objections to Order and Findings and Recommendations (Dkt. No. 8), and the remaining record, the Court ADOPTS the R & R and OVERRULES the objections.

## I. BACKGROUND

This appears to be Plaintiff's third attempt to bring suit alleging a violation of 42 U.S.C. § 1983 arising out of the same January 2021 arrest that spawned his claims in *Hagos v. Seattle Police Dep't*, No. C22-931, 2022 WL 7408838 (W.D. Wash. Oct. 13, 2022) and *Hagos v. Seattle Police Dep't*, No. C22-932, 2022 WL 3447564 (W.D. Wash. Aug. 17, 2022). In this case, Plaintiff sues Liza Parisky (his public defender), M. Hunter Davidhizar (the prosecuting attorney), and Thomas E. Healy (the arresting officer). *See* Dkt. No. 1-1. Count I of Plaintiff's Complaint alleges ineffective assistance by Defendant Parisky while Count II alleges violation of Plaintiff's Sixth and Fourteenth Amendment rights by Defendants Davidhizar and Healy. *Id.*

Judge Tsuchida recommends the claim against Defendant Parisky be dismissed because the claim goes directly to the public defender's traditional role as a lawyer which does not qualify as a state actor for purposes of a § 1983 claim. Dkt. No. 6 at 4. With regard to Defendant Davidhizar, Judge Tsuchida recommends dismissal of that claim as prosecutors are entitled to absolute immunity from liability for damages under § 1983. *Id.* at 5. Finally, Judge Tsuchida recommends dismissal of Plaintiff's claim against Defendant Healy as duplicative of his earlier complaints. *Id.* at 5–6.

## II. LEGAL STANDARD

A district court has jurisdiction to review a magistrate judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). The district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to.”). “The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with

1 instructions.” Fed. R. Civ. P. 72(b)(3); *accord* 28 U.S.C. § 636(b)(1). A party properly objects  
2 when the party files “specific written objections” to the report and recommendation as required  
3 under Federal Rule of Civil Procedure 72(b)(2).

4 Plaintiff filed timely objections (Dkt. No. 8), and the Court has made a *de novo*  
5 determination of the portions of the R & R to which Plaintiff objected.

### 6 III. DISCUSSION

7 This Court liberally construes pleadings filed by *pro se* litigants and holds them “to less  
8 stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89,  
9 94 (2007) (per curiam) (citation omitted). But a court “should not supply essential elements of  
10 the [pro se] claim that were not initially pled.” *E.g., Henderson v. Anderson*, No. C19-0789,  
11 2019 WL 3996859, at \*1 (W.D. Wash. Aug. 23, 2019) (citation and quotation omitted); *see also*  
12 *Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019) (“[C]ourts should not  
13 have to serve as advocates for pro se litigants.”) (quoting *Noll v. Carlson*, 809 F.2d 1446, 1448  
14 (9th Cir. 1987)). Also, “it is axiomatic that pro se litigants, whatever their ability level, are  
15 subject to the same procedural requirements as other litigants.” *Muñoz v. United States*, 28 F.4th  
16 973, 978 (9th Cir. 2022).

17 The majority of Plaintiff’s objection discusses his personal situation along with a wide  
18 range of statutes and cases, many of which do not apply to the claims he brings or do not address  
19 the issues in his case. The only reference in his objection to any defendant in this case concerns  
20 Defendant Parisky releasing some of the public records he requested. Dkt. No. 8 at 13. To the  
21 extent Plaintiff’s objection raises a challenge to whether there was probable cause for his 2021  
22 arrest and might be slightly different (because he brings the case against a different defendant or  
23 presents different arguments about that arrest), the Court agrees with Judge Tsuchida that  
24 Plaintiff cannot relitigate issues in this case that were or could have been raised in his prior

lawsuit. Dkt. No. 6 at 6–7. *See Allen v. McCurry*, 449 U.S. 90, 94 (1980) (“[A] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action.”).

Construing his objection liberally, the Court finds Plaintiff does not raise any arguments demonstrating any error in Judge Tsuchida’s report. Nor does the Court find any errors in Judge Tsuchida’s recommendation.

#### IV. CONCLUSION

For the reasons stated above, the Court hereby ORDERS that:

- (1) The Report and Recommendation (Dkt. No. 6) is ADOPTED;
- (2) Plaintiff’s objections (Dkt. No. 8) are OVERRULED;
- (3) The case is DISMISSED with prejudice and shall count as a strike under 28 U.S.C. § 1915(g);
- (4) The Clerk is DIRECTED to send copies of this Order to Plaintiff.

Dated this 22nd day of May 2023.

  
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Tana Lin  
United States District Judge